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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE CAROL OWENS, CHAIR, ASSEMBLY COMMITTEE ON  
CHILDREN AND FAMILY LAW

FROM: Anne Sappenfield, Senior Staff Attorney

RE: 2007 Assembly Bill 34, Relating to Garnishment of the Income of a Minor

DATE: March 23, 2007

This memorandum describes 2007 Assembly Bill 34, relating to garnishment of the income of a minor. Assembly Bill 34 was introduced by Representative Owens; cosponsored by Senator Olson on January 24, 2007. The Assembly Committee on Children and Family Law held a public hearing on the bill on March 8, 2007.

The bill modifies current law relating to garnishment of wages. An earnings garnishment is an action to collect an unsatisfied civil judgment from earnings payable by the garnishee (e.g., the debtor's employer) to the debtor. [s. 812.32, Stats.]

Generally, 80% of a debtor's disposable earnings are exempt from garnishment. [s. 812.34 (2), Stats.] A debtor's earnings are totally exempt from garnishment if the debtor's "household income" is below the poverty line or the garnishment would cause that result. [s. 812.34 (2) (b) 1., Stats.] "Household income" is defined as the disposable earnings (i.e., earnings after deducting Social Security and income taxes) of the debtor and any dependents of the debtor during any month in which the garnishment is in effect, plus unearned income received by the debtor and dependents in that month, less any of the debtor's earnings assigned by a court order under ch. 767 (actions affecting the family). Under this definition, the household income of a debtor who is a minor will virtually always be below the poverty line or the garnishment will cause that result.

To permit garnishment of the disposable earnings of a minor, Assembly Bill 34 revises the definition of "household income" for purposes of determining the application of the 100% exemption when the debtor is a minor. [See SEC. 2 of Assembly Bill 34.] The bill includes reference to the disposable earnings and unearned income of the minor debtor's parents and the parent's dependents in the revised definition. As a result, there is greater likelihood that the 100% exemption referred to above will not apply in a garnishment to collect from the disposable earnings of a minor. However, the

garnishment action against a garnishee of the minor debtor is not against the household income of the minor but, rather, against the minor's disposable earnings.

The proposal only allows garnishment of the nonexempt disposable earnings of a minor when the judgment creditor is seeking to satisfy a judgment for unpaid restitution, costs, forfeiture, or surcharge entered by a juvenile court under s. 895.035 (2m) (a) or (b), Stats. Currently under the latter section, a parent of the minor may be liable under the judgment, along with the juvenile. That provision is unaffected by Assembly Bill 34.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

AS:tlujb:jal